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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,557	03/11/2004	Takuji Matsuura	A 91 977/lr	2556
30008	7590	04/04/2006	EXAMINER	
GUDRUN E. HUCKETT DRAUDT LONSSTR. 53 WUPPERTAL, 42289 GERMANY			MICHALSKI, SEAN M	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/708,557	Applicant(s) MATSUURA, TAKUJI	
	Examiner Sean M. Michalski	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-11 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

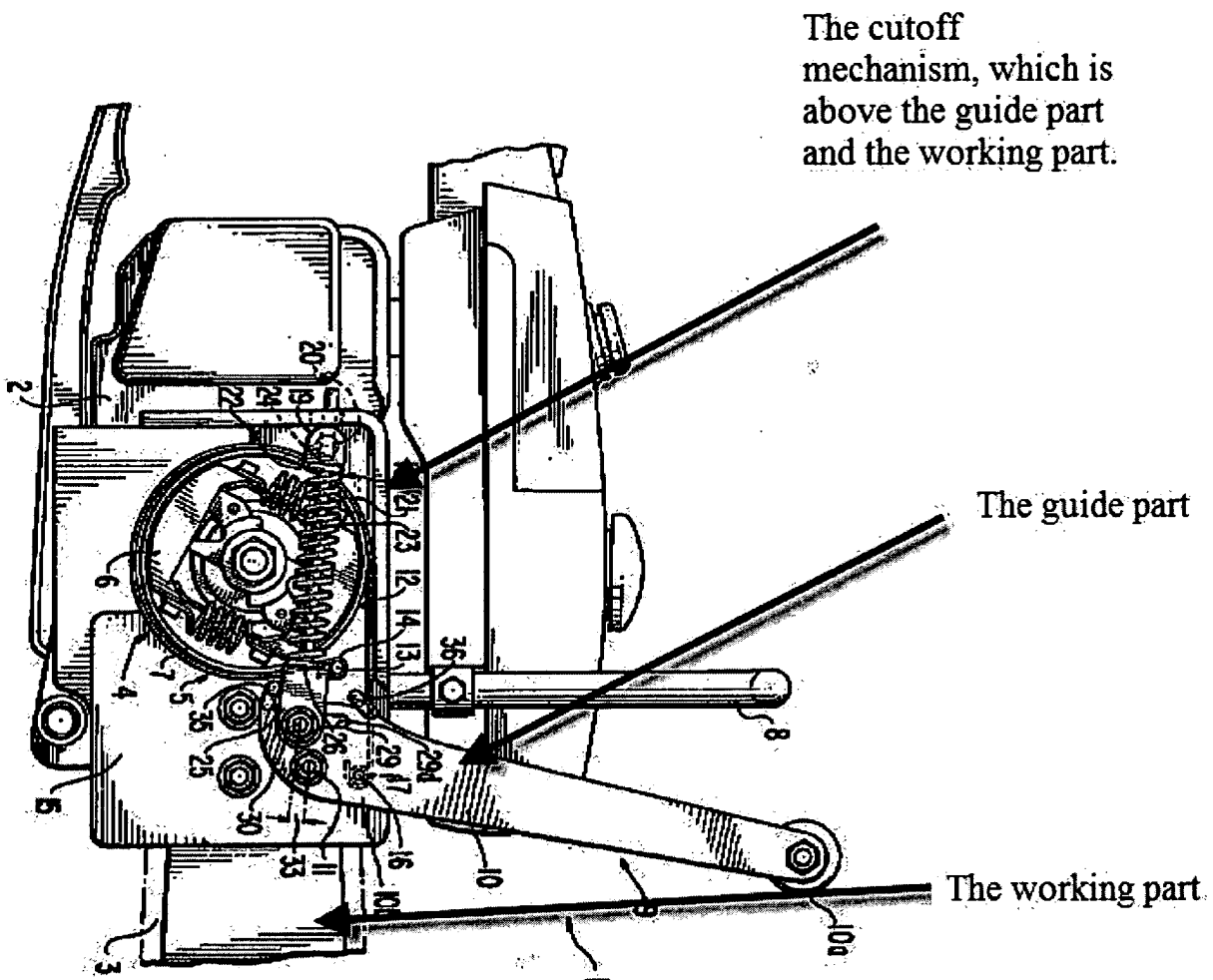
Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 5-8, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirschhoff (USPN 4,026,392).

Regarding claim 1, Hirschhoff discloses a trimmer with a working part (3 figure 1) with a cutting tool (column line) and a drive (column line) , a guide part (10, 10(a) figure 1) with a guide shaft (10(a) figure 1) with a drive connection (via engagement member 12 the guide is drive connected) for connecting a drive motor (2 figure 1) to the drive of the working part (column 2 line 63-66; 4 figure 1), wherein the working part (3 figure 1) is pivotable relative to the guide part (11 figures 1 and 2; 11 is described as a pivot member). Hirschhoff further discloses a safety device comprising a drive cutoff mechanism (many elements of figure 1 including 12, 18, 35, and 29 comprise the mechanism) which is disclosed as braking (read as switching off) the drive of the working part (column 4 lines 65-68) when the angle between the working part (3 figure 1) and the guide part (10 figure 1) is within a predetermined range. The cutoff is effected between the angles shown in figures 1 and 2, and the action is repeatable; therefore predetermined.

2. Regarding claim 2, Hirschhoff further discloses that the cutoff mechanism is arranged above the working part and the guide part (as seen below).



3. Regarding claim 3, Hirschoff further discloses an engagement member (12 figures 1 and 2) which engages a drive member of the drive (7 figure 2), in order to turn off the drive (column 4 lines 65-68).

4. Regarding claim 5, Hirschoff further discloses a cam controlled lifting pin (30 figures 1 and 2) which controls the cutoff mechanism (since the cutoff mechanism is effected by the engagement of 12 which is connected to 13 and 14 which are controlled by the motion of 30 relative to 29).

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5. Regarding claim 6, Hirschhoff further discloses that the engagement member is rotated by the lifting pin, since when the lifting pin is lifted, 14 forces 12 to rotate counter-clockwise as seen in figures 1 and 2.

6. Regarding claim 7, Hirschhoff inherently meets the limitation that the rotary driving direction of the drive member is opposite the rotational direction of the engagement section. All chain bladed saws rotate such that when the bottom of the blade contacts the work piece the debris flies down, and not up. Therefore as seen in figure 2, the drive member (7 figure 2) is rotating clockwise. This is opposite to the direction of rotation of the mechanism as discussed in the preceding paragraph.

7. Regarding claim 8, Hirschhoff further discloses that the cutting tool is a blade. The working end of a chainsaw is a blade, specifically a chain-blade or a blade comprised of links. The plain meaning of 'blade' is the cutting part of an implement (Merriam Webster's).

8. Regarding claim 10, Hirschhoff further discloses that the blade is a rotary blade. Chain saws are known to operate with the chain-blade rotating around a guide member and being driven by a driving member (as seen in figure 2). Since the blade is rotating in a single plane the blade is said to be rotary.

9. Regarding claim 11, the stipulation that the trimmer be a "hedge" trimmer or a "grass" trimmer describes intended use and is not given patentable weight. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be used does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Mashum*, USPQ2d 1647

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(1987). Furthermore the chainsaw is inherently capable of trimming hedges, and is therefore considered to be a hedge trimmer.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirschhoff in view of Richards (USPGPUB 2004/0035009).

Hirschhoff teaches all the elements of the claimed invention as discussed above, except for the limitation that said blade be a reciprocating blade.

Richards teaches the use of a power tool with a reciprocating blade or alternatively with a chain saw blade (paragraph 24, indicated by 24 figure 1).

Richards shows that reciprocating blades and chain saw blades are equivalent structures known in the art. Therefore, because chain blades and reciprocating blades

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were art recognized equivalents at the time the invention was made, it would have been obvious to one skilled in the art to substitute a reciprocating saw for a chain saw.

Allowable Subject Matter

13. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. The following is an examiner's statement of reasons for allowance: Although gear stops are well known (see Lindemeyer USPN 4,424,948), as are pivotable hedge trimmers (see Lonnecker USPN 4,651,420; Langhans USPN 6,735,873; Janczak USPN 6,182,367) there is no motivation to combine. Lindemeyer is non-analogous art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

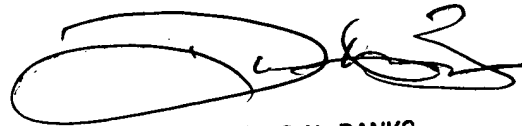
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean M. Michalski whose telephone number is 571-272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Smm

A handwritten signature in black ink, appearing to read 'D. Banks', with a large, stylized loop at the end.

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700